

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

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Re: Case No. 19-101, *In re: Auto Parts Antitrust Litig, et al*
Originating Case No. : 2:12-cv-00501 : 2:12-cv-12932 : 2:12-cv-13142 : 2:15-cv-13932 :
2:15-cv-12068 : 2:12-cv-00500 : 2:15-cv-13945 : 2:12-md-02311

Dear Sir or Madam,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Bryant L. Crutcher
Case Manager
Direct Dial No. 513-564-7013

cc: Mr. David J. Weaver

Enclosure

No mandate to issue

No. 19-0101

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Apr 01, 2019
DEBORAH S. HUNT, Clerk

In re: AUTOMOTIVE PARTS ANTITRUST
LITIGATION.

In re: Bearings Cases.

This Relates To:
Direct Purchaser Actions.

In re: DALC GEAR & BEARING SUPPLY
CORP.; MCGUIRE BEARING COMPANY;
SHERMAN BEARINGS, INC.

Petitioners.

O R D E R

Before: NORRIS, SUTTON, and COOK, Circuit Judges.

The petitioners seek permission to appeal the order denying class certification in these consolidated antitrust actions alleging that the defendant manufacturers engaged in a conspiracy to fix the prices for steel bearings in violation of Section 1 of the Sherman Act. *See* Fed. R. Civ. P. 23(f). The defendants oppose the petition to appeal.

Under Rule 23(f), we have discretion to hear an appeal from the denial of class certification. *See In re Delta Air Lines*, 310 F.3d 953, 959 (6th Cir. 2002). Rule 23(f) appeals are not to be routinely accepted, and interlocutory review is not favored “in ordinary cases, which involve the application of well-established standards to the facts of a particular case.” *Id.* at 959–60. We consider the following factors in determining whether to permit the plaintiffs’ interlocutory appeal: (1) whether the plaintiffs are likely to succeed on appeal under the deferential abuse-of-discretion standard; (2) whether the cost of continuing the litigation for either the plaintiffs or the defendants

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presents such a barrier that subsequent review is hampered; (3) whether the case presents a novel or unsettled question of law; and (4) the procedural posture of the case before the district court. *Id.* at 960.

A district court has substantial discretion in determining whether it will certify a class. *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 850 (6th Cir. 2013); *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 536 (6th Cir. 2012). Thus, appellate “review is ‘very limited,’ and we will reverse ‘only if a strong showing is made that the district court clearly abused its discretion.’” *Sandusky Wellness Ctr., LLC v. ASD Specialty Healthcare, Inc.*, 863 F.3d 460, 466 (6th Cir. 2017), *cert. denied*, 138 S. Ct. 1284 (2018) (quoting *Young*, 693 F.3d at 536). “An abuse of discretion occurs if the district court relies on clearly erroneous findings of fact, applies the wrong legal standard, misapplies the correct legal standard when reaching a conclusion, or makes a clear error of judgment.” *Young*, 693 F.3d at 536. Given this deferential standard of review, the petitioners have not shown a substantial likelihood of success on the merits.

In addition, consideration of the other factors does not support an interlocutory appeal. The denial of class certification is not the death knell of the litigation, and the posture of the action below does not favor an immediate appeal.

Accordingly, the petition to appeal is **DENIED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk